

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RICARDO GONZALEZ, aka JOSE LUIS) NO. CV 10-01100-AHM (SS)
GONZALEZ,)
)
Plaintiff,)
) **ORDER ACCEPTING FINDINGS,**
)
v.) **CONCLUSIONS AND RECOMMENDATIONS**
)
MICHAEL CHACON and) **OF UNITED STATES MAGISTRATE JUDGE**
JAMES GIDEON,)
)
Defendants.)

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Second Amended Complaint, Defendants' Motion for Summary Judgment, all of the records and files herein, and the Magistrate Judge's Report and Recommendation. The time for filing Objections to the Report and Recommendation has passed and no Objections have been received. Accordingly, the Court accepts the findings, conclusions and recommendations of the Magistrate Judge, except as modified below.

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1 At page 16, line 9, the Court inserts the following language:

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3 Because the Court finds that no Fourth Amendment violation occurred
4 here, it is unnecessary to reach Defendants' assertion of qualified
5 immunity. However, even if the Court had concluded that the force used
6 was not objectively reasonable, a reasonable police officer could
7 properly believe the use of this level of force was necessary, given
8 Plaintiff's intoxication, gang member status, and resistance to arrest.
9 Accordingly, Defendants would be entitled to qualified immunity.
10 Pearson, 555 U.S. at 244-5, 129 S. Ct. at 823.

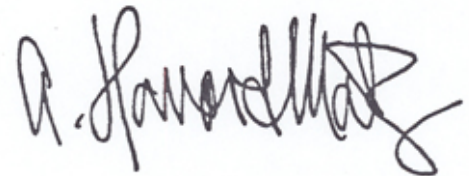
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12 IT IS HEREBY ORDERED THAT:

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14 1. Defendants' Motion for Summary Judgment is GRANTED;

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16 2. Judgment is entered in favor of Defendants and against
17 Plaintiff on all claims raised in the Second Amended Complaint; and

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19 3. The Second Amended Complaint is DISMISSED WITH PREJUDICE.

20 DATED: September 28, 2011

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23 A. HOWARD MATZ
24 UNITED STATES DISTRICT JUDGE
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